

derstand it, the New York Convention elected to adopt the New York Statute on lobbying. The Michigan Convention dealt with lobbying by rule and regulation. Other Conventions had the same problem. In New York the statute prescribed sanctions; not only sanctions of the New York criminal law, but also the contempt power.

Now the Enabling Act under which we operate has not given us any sanction power. We do not apparently have the contempt power, and there is no other provision of the statute which would in any way inflict penalties on anybody who ignored the regulations of this Convention with respect to lobbying.

In some quarters there is an argument that this Convention in effect being a repository of the sovereign people of the Convention assembled could actually invoke contempt power, and I believe that Delegate Bamberger informs me over the long history of these things there are a few isolated cases on the point, but none of them are determinative and I for one would not suggest that we take the position that we have any inherent contempt power. I do not think it would be worth it. It would create more problems than it solves, so within the limitations that we have no sanction power, we have done our best to propose to you a regulation which would assist the Convention in knowing with whom it is dealing. In the end then the only sanctions, aside from the Convention's power to exclude from appearances before it in a representative capacity those who do not comply with the regulations, the only sanctions we have are those of the fourth estate, the identification of the person and the group for whom he purports to speak, and a disclosure of the money he is receiving, or the money that he has spent in advocating a particular point of view that he is advocating before the Convention. I will not attempt to go over in detail each regulation or each section of the proposed regulation but I would like to deal with them briefly. I want to say one thing: The Committee was unanimous, with one exception, on the question of whether we should do anything at all about this. Once it was determined that we should recommend the Convention do something about it, the Committee was unanimous in recommending that it should cover not only those who get paid for representing the views of others, but those who represent the views of others, and do not get paid for it.

I think we will see a lot of this category of person, persons who come down to represent churches, schools, municipal leagues and what have you, and we just want to

know, when they say they speak for a group or an association, that they truly do, and for whom they speak. I think this is a little bit different from the situation in the General Assembly. The category of representative witnesses, as we call the latter category, those who do not get paid, will be very large indeed.

Then let us get to the question of the persons purported to be covered by this regulation. We purport to cover every person who is engaged to represent another person, association, corporation, et cetera, as set forth in section 1(a) [Appendix A]*, who receives compensation for those efforts. That category of person must register as an agent; whether or not he is just talking to a delegate or writing a delegate or what have you. The second category we have elected to call representative witnesses are those not compensated for their efforts in advocating the views of others, but who nevertheless advocate the views of others.

There was some feeling on the committee that we would like to have this category of persons reached, whatever they do, whenever they contact a delegate. But here we floundered on the limitations of language. Could we draw a distinction between the person that talked to a delegate when he got home on the weekend or talked to a delegate on the steps of the State House? There we gave up and secondly as Congressman Sickles pointed out, we might be catching the little person who never had any great experience in lobbying before the legislature, but who nevertheless wants to acquaint his delegates in his county with the views, say, of his local P.T.A. or what have you. If we reached out too broadly in that direction, we might be fashioning a net, as it was said, the law being the net that catches gnats and lets wasps free. We did not want to penalize the average citizen, so we perhaps took the cowardly way out. But it was the only intelligent way out in view of the situation. We elected to embrace those people within the requirement of registration, only when they appeared before the Convention, or a committee of the Convention, including the Committee of the Whole, or a subcommittee of the Convention. Those people also would be required to register and they would be designated as in section 1(b) as a representative witness.

We do not require registration by any person who just appears to present his own

*The reference in brackets refers to the location of this section in the finalized Rules of the Constitutional Convention in Maryland.